

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986

- a) Addback of federal net operating loss deduction. The starting point in calculating Illinois net income or loss is taxable income. IITA Section 203(e)(1) provides that taxable income shall mean the amount of taxable income properly reportable for federal income tax purposes, and that taxable income may be less than zero. The IITA requires that certain addition and subtraction modifications be made to taxable income to arrive at base income. In order to avoid the recognition of a federal net operating loss in more than one taxable year, IITA Sections 203(b)(2)(E) and 203(c)(2)(E) require an addition modification for corporations, trusts and estates. Thus, the amount of any federal net operating loss deduction (arising from a loss incurred in a taxable year ending on or after December 31, 1986), taken in arriving at federal taxable income must be added back in the computation of Illinois base income. Since partnerships and S corporations are not allowed a net operating loss deduction for federal purposes, this type of addback does not apply to them. The addback is illustrated by the following Example.

EXAMPLE: In 1986, Corporation A reported a (\$100) federal net operating loss. Corporation A carried this loss back for federal purposes and claimed a federal NOL deduction in 1983 of \$100. On its Illinois amended return for 1983, since the federal NOL deduction taken on its amended 1983 U.S. return relates to an NOL incurred in a tax year ending on or after December 31, 1986, the \$100 federal NOLD must be treated as an addition modification on Corporation A's amended 1983 Illinois return.

- b) Other modifications, allocation and apportionment. The other addition and subtraction modifications provided in IITA Sections 203(b)(2), 203(c)(2), and 203(d)(2) must be taken into account before an Illinois net loss can be determined. Also, the allocation and apportionment provisions of IITA Article 3 must be applied before an Illinois net loss can be determined. This is illustrated in the following Example.

EXAMPLE: In 1987, Corporation A has federal taxable income of \$200, less a \$100 federal NOLD relating to a NOL incurred in 1986. In 1987, Corporation A also has \$300 of Illinois addition modifications relating to income from State obligations, \$200 of subtraction modifications relating to income from U.S. obligations, \$400 of nonbusiness loss allocable to Illinois, and a 50% apportionment factor in Illinois. Corporation A would compute its 1987 Illinois net loss as follows:

Plus	- addition modification for federal NOLD relating to 1986 loss	100
Plus	- other addition modification	300
Minus	- subtraction modification	(200)
Equals	- base income	\$300
Minus	- nonbusiness loss	(400)
Equals	- business income	700
Times	- 50% apportionment factor	350
Plus	- nonbusiness loss allocable to Illinois	(400)
Equals	- Illinois net loss	(50)

c) Net operating losses occurring prior to December 31, 1986, carried into tax years ending on or after December 31, 1986

- 1) Effect on taxable income in the carryforward year. Any federal net operating losses occurring prior to December 31, 1986 and carried into tax years ending on or after December 31, 1986, will be treated as an adjustment to federal taxable income (an adjustment before apportionment), and any such federal net operating loss deduction will not be required to be added back in computing Illinois base income unless such loss has already been used for Illinois purposes (see paragraph 3, below).
- 2) Effect on excess addition modifications in the carryforward year. Furthermore, IITA Section 203(e)(1), as amended by P.A. 84-1400, permits net operating loss carryforwards from pre-December 31, 1986, tax years to tax years ending on or after December 31, 1986, to offset the excess of Illinois addition modifications over subtraction modifications in such years. This is illustrated in the following Example.

EXAMPLE: Corporation A had a \$1,000 federal net operating loss in 1985. The loss could not be carried back to a prior year and none of it was absorbed in 1986. In 1987, Corporation A had federal taxable income before special deductions of \$200, and it had \$100 of excess Illinois addition modifications over subtraction modifications. As a result, the \$1,000 federal net operating loss will offset the \$200 of taxable income before special deductions and the \$100 of excess addition modifications. For Illinois income tax purposes, Illinois base income and Illinois net income will be zero for 1987, and there will remain a \$700 federal net operating loss carryforward for 1988 and later years.

- 3) NOL addition modification in carryforward years. For taxable years in which a net operating loss carryforward from a taxable year ending prior to December 31, 1986, is an element of taxable income, IITA Sections 203(b)(2)(F) and 203(c)(2)(F) provide a special addition modification if that loss carryforward originated in a loss year in which it was used to offset excess Illinois addition modifications in calculating Illinois base income. See Schedule NL or NL-1 (for members of unitary business groups) of the IL-1120.

(Source: Added at 11 Ill. Reg. 17782, effective October 16, 1987)